

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION

IN RE:	)	Chapter 11
	)	
EASTERN LIVESTOCK CO., LLC,	)	Case No. 10-93904-BHL-11
	)	
<u>Debtor.</u>	)	Hon. Basil H. Lorch III

**MOTION TO APPROVE COMPROMISE AND SETTLEMENT  
WITH KENNY OGDEN**

Pursuant to Federal Rule of Bankruptcy Procedure 9019, James A. Knauer, as chapter 11 trustee ("Trustee") for the debtor, Eastern Livestock Co., LLC (the "Debtor"), by counsel, hereby files this motion (the "Settlement Motion") requesting the Court's approval of a compromise and settlement of claims between the Trustee and Kenny Ogden ("Ogden"). In support of this Settlement Motion, the Trustee states as follows:

**Introduction and Background**

1. Certain petitioning creditors commenced the above-captioned chapter 11 case (the "Chapter 11 Case") against Debtor on December 6, 2010 by filing an involuntary petition for relief under chapter 11 of title 11 of the United States Code. This Court entered the Order For Relief in An Involuntary Case and Order to Complete Filing [Dock. No. 110] on December 28, 2010.

2. On December 27, 2010, the Court entered the Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee [Dock. No. 102], approving the United States Trustee's Application for an Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee [Dock. No. 98] pursuant to 11 U.S.C. § 1104.

3. On March 23, 2012, the Trustee filed his Adversary Complaint (the "Adversary Proceeding") against Ogden as Adversary Proceeding 12-59013.

4. Based on his investigation, the Trustee has concluded that Ogden owes the Debtor \$217,219.34 on account of the Debtor's prepetition delivery of cattle to Ogden and as evidenced by Debtor's invoice numbers 315116, 315690, 315117 and 315559. Ogden disputes that he owes the entire amount reflected in these invoices and has claimed certain defenses and offsets.

5. The Trustee and Ogden, in an effort to avoid the significant cost and expense of further litigating the disputes and claims set forth above, desire to settle their disputes upon the terms and conditions set forth in the Settlement Agreement and Mutual Release attached hereto as Exhibit A to this Settlement Motion ("Settlement Agreement")

#### **The Settlement**

6. The Trustee requests that the Court approve the Settlement Agreement. Pursuant to the Settlement Agreement, Ogden has agreed to pay the Trustee the total amount of \$171,030.04 (the "Settlement Amount") within five (5) days of this Court's approval and final, non-appealable Order.

#### **Basis for Relief**

7. Pursuant to Federal Rule of Bankruptcy Procedure 9019, this Court has authority to approve a compromise or settlement on motion made by the Trustee after notice and opportunity for a hearing.

8. Under Bankruptcy Rule 9019, a bankruptcy court should approve a proposed compromise if it is fair and equitable and in the best interests of the estate. See In re Doctors Hosp. of Hyde Park, Inc., 474 F.3d 421, 426 (7th Cir. 2007); Depoister v. Mary M. Holloway Found., 36 F.3d 582, 586 (7th Cir. 1994); Matter of Energy Co-op, Inc. 886 F.2d 921, 927 (7th Cir. 1989).

9. The Trustee believes that the compromise and settlement reflected in the proposed Settlement Agreement is fair and equitable and in the best interests of the estate. The alternative to the settlement is litigation of the claims between the Debtor and Ogden, which would result in expenses and delay and create the possibility of an outcome that would result in a smaller recovery to the estate.

10. The Trustee requests the Court to specify in the Settlement Order that the Settlement Amount shall be deposited into the Debtor's general operating account, subject to any order governing the use of cash collateral by the Trustee.

9. If no objections to this Settlement Motion are filed, the Parties request that the Court enter the Settlement Order approving the Settlement Agreement. If any objections to this Settlement Motion are filed, the Parties request that this Settlement Motion and any timely filed objection be scheduled for hearing by the Court on the earliest date that is available and convenient to the Court.

WHEREFORE, the Trustee respectfully requests that the Court enter a Settlement Order approving the Settlement Agreement attached hereto as Exhibit A and grant the Trustee all other just and proper relief.

Respectfully submitted,

FAEGRE BAKER DANIELS LLP

By: /s/ Shawna Meyer Eikenberry

Shiv Ghuman O'Neill (#23280-53A)  
Shawna Meyer Eikenberry (#21615-53)  
300 N. Meridian Street, Suite 2700  
Indianapolis, IN 46204-1782  
Telephone: (317) 237-0300  
Facsimile: (317) 237-1000  
shiv.oneill@faegrebd.com  
shawna.eikenberry@faegrebd.com

*Counsel for James A. Knauer, Chapter 11 Trustee*

**CERTIFICATE OF SERVICE**

I hereby certify that on July 16, 2012, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

David L. Abt  
davidabt@mwt.net

Mark A. Robinson  
mrobinson@vhlaw.com

Randall D. LaTour  
rdlatour@vorys.com

Daniel J. Donnellon  
ddonnellon@ficlaw.com

John W. Ames  
james@bgdlegal.com

Jeremy S Rogers  
Jeremy.Rogers@dinslaw.com

Meredith R. Thomas  
mthomas@daleeke.com

Charles R. Wharton  
Charles.R.Warton@usdoj.gov

David L. LeBas  
dlebas@namanhowell.com

Jessica E. Yates  
jyates@swlaw.com

Laura Day Delcotto  
ldelcotto@dlgfir.com

Ross A. Plourde  
ross.plourde@mcafeetaft.com

Todd J. Johnston  
tjohnston@mcjllp.com

Karen L. Lobring  
lobring@msn.com

Elliott D. Levin  
edl@rubin-levin.net

Sean T. White  
swhite@hooverhull.com

Michael W. McClain  
mike@kentuckytrial.com

James Edwin McGhee  
mcghee@derbycitylaw.com

Jerald I. Ancel  
jancel@taftlaw.com

David Alan Domina  
dad@dominalaw.com

C. R. Bowles, Jr  
cbowles@bgdlegal.com

Jeffrey R. Erler  
jeffe@bellnunnally.com

John R. Carr, III  
jrciii@acs-law.com

Stephen A. Weigand  
sweigand@ficlaw.com

Robert Hughes Foree  
robertforee@bellsouth.net

Ivana B. Shallcross  
ishallcross@bgdlegal.com

William Robert Meyer, II  
rmeyer@stites.com

James Bryan Johnston  
bjtexas59@hotmail.com

Judy Hamilton Morse  
judy.morse@crowedunlevy.com

John Huffaker  
john.huffaker@sprouselaw.com

Kelly Greene McConnell  
lisahughes@givenspursley.com

Walter Scott Newbern  
wsnewbern@msn.com

Timothy T. Pridmore  
tpridmore@mcjllp.com

Sandra D. Freeburger  
sfreeburger@dsf-atty.com

John M. Rogers  
johnr@rubin-levin.net

Robert H. Foree  
robertforee@bellsouth.net

William E Smith  
wsmith@k-gl.com

Thomas C Scherer  
tscherer@binghamchale.com

Jeffrey J. Graham  
jgraham@taftlaw.com

Kent A Britt  
kabritt@vorys.com

John Hunt Lovell  
john@lovel-law.net

Edward M King  
tking@fbtlaw.com

Bret S. Clement  
bclement@acs-law.com

John Frederick Massouh  
john.massouh@sprouselaw.com

Kim Martin Lewis  
kim.lewis@dinslaw.com

Deborah Caruso  
dcaruso@daleeke.com

Allen Morris  
amorris@stites.com

James T. Young  
james@rubin-levin.net

John M. Thompson  
john.thompson@crowedunlevy.com

Matthew J. Ochs  
matt.ochs@moyewwhite.com

T. Kent Barber  
kbarber@dlgfir.com

Kirk Crutcher  
kcrutcher@mcs-law.com

Theodore A Konstantinopoulos  
ndohbky@jbandr.com

Lisa Koch Bryant  
courtmail@fbhlaw.net

John David Hoover  
jdhoover@hooverhull.com

Sarah Stites Fanzini  
sfanzini@hopperblackwell.com

Susan K. Roberts  
skr@stuartlaw.com

David A. Laird  
david.laird@moyewwhite.com

Trevor L. Earl  
tearl@rwsvlaw.com

Joshua N. Stine  
jnstine@vorys.com

Jill Zengler Julian  
Jill.Julian@usdoj.gov

Michael Wayne Oyler  
moyler@rwsvlaw.com

James E. Rossow  
jim@rubin-levin.net

Steven A. Brehm  
sbrehm@bgdlegal.com

James M. Carr  
james.carr@faegrebd.com

Shawna M. Eikenberry  
shawna.eikenberry@faegrebd.com

James A. Knauer  
jak@kgrlaw.com

Christie A. Moore  
cmoore@bgdlegal.com

Jeffrey E. Ramsey  
jramsey@hopperblackwell.com

Joseph H. Rogers  
jrogers@millerdollarhide.com

Andrew D. Stosberg  
astosberg@lloydmc.com

Andrea L. Wasson  
andreawassonatty@gmail.com

Jeffrey L. Hunter  
jeff.hunter@usdoj.gov

Jason W. Cottrell  
jwc@stuartlaw.com

James B. Lind  
jblind@vorys.com

Anthony G. Raluy  
traluy@fbhlaw.net

Jack S. Dawson  
jdawson@millerdollarhide.com

Terry E. Hall  
terry.hall@faegrebd.com

Erick P. Knoblock  
eknoblock@daleeke.com

Shiv Ghuman O'Neill  
shiv.oneill@faegrebd.com

Eric C. Redman  
ksmith@redmanludwig.com

James E. Smith  
jsmith@smithakins.com

Kevin M. Toner  
kevin.toner@faegrebd.com

Christopher M. Trapp  
ctrapp@rubin-levin.net

Amelia Martin Adams  
aadams@dlgfir.com

Robert A. Bell  
rabell@vorys.com

Melissa S. Giberson  
msgiberson@vorys.com

Christopher E. Baker  
cbaker@hklawfirm.com

Dustin R. DeNeal  
dustin.deneal@faegrebd.com

Jay Jaffe  
jay.jaffe@faegrebd.com

Harmony A. Mappes  
harmony.mappes@faegrebd.com

Wendy W. Ponader  
wendy.ponader@faegrebd.com

Joe T. Roberts  
jratty@windstream.net

Robert K. Stanley  
robert.stanley@faegrebd.com

U.S. Trustee  
ustpreion10.in.ecf@usdoj.gov

Eric W. Richardson  
ewrichardson@vorys.com

I further certify that on July 16, 2012, a copy of the foregoing pleading was served via electronic mail transmission on the following:

Ashley S. Rusher  
asr@blancolaw.com

Darla J. Gabbittas  
darla.gabbittas@moyewwhite.com

/s/ Shawna Meyer Eikenberry